IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 18213 of 2007(R)

PETITIONER:

KERAFIBERTEX INTERNATIONAL PVT. LTD.,
KINFRA(EPIP), KUSUMAGIRI P.O., KAKKANAD,
COCHIN-30, REP. BY ITS MANAGING DIRECTOR,
P.K.PRASAD.

BY ADV. SRI.SIBY MATHEW
SMT.P.K.PAMALA

RESPONDENTS:

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1. THE COMMERCIAL TAX OFFICER,
2ND CIRCLE, DEPARTMENT OF COMMERCIAL TAXES,
KALAMASSERY AT PALARIVATTOM, ERNAKULAM.

2. THE COMMISSIONER OF COMMERCIAL TAXES,
DEPARTMENT OF COMMERCIAL TAXES, OPP. MUSEUM,
THIRUVANANTHAPURAM.

3. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY (FINANCE), SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. MATHEW VADAKKEL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.18213 of 2007

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Dated this the 6th day of August, 2007

JUDGMENT

Prayer is to refund input tax paid at Rs.38,43,187/- as evidenced by Ext.P3 notice. The further prayer is to set aside Ext.P3 notice to the extent of demanding Bank Guarantee in Form No.6C for an amount of Rs.38,43,187/-.

2. I heard Government Pleader also. Counter affidavit is filed wherein it is stated as follows:

> "The assessee has filed refund application in Form 21C under Rule 47(1) of the KVAT. The Form 21C filed by the assessee is being processed orders will be issued at the earliest. The delay in considering the same was caused due to transfer of files to the Audit Wing of the department for verification.
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> Since the files relating to the refund application were sent to the Commercial Tax Officer (AA), Ernakulam for verification, the petitioner was directed to furnish Bank guarantee as per Rule 47(4) of Kerala Value Added Tax Rules 2005 pending orders, for releasing the amount without pre verification."

In the facts, the writ petition is disposed of directing the first respondent to consider and take a decision on the claim for refund of input tax for the year 2005-2006 in accordance with law within a period of three weeks from the date of receipt of a copy of this judgment.

(K.M. JOSEPH, JUDGE)

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